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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,820	09/26/2001	David G. Leeper	ITL.1799US (P10398)	2634
47795	7590	03/28/2008	EXAMINER	
TROP, PRUNER & HU, P.C. 1616 S. VOSS RD., SITE 750 HOUSTON, TX 77057-2631			BOLOURCHI, NADER	
		ART UNIT	PAPER NUMBER	
		2611		
		MAIL DATE		DELIVERY MODE
		03/28/2008		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/964,820	LEEPER, DAVID G.	
	Examiner	Art Unit	
	NADER BOLOURCHI	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 2/1/2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3,5-12,14-17 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3, 5-12, 14-17, and 23-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Remarks

1. Claims stand rejected under 35 USC § 102.

Response to Arguments

2. Applicant's arguments filed 2/1/2008 have been fully considered but they are not persuasive.
3. While Applicants properly notes and indicates that (emphasis added):

paragraph 23, last

four lines are cited. Those lines are as follows:

The request for assistance message is preferably directed to all neighbor NAPs and includes the ID for the NAP requesting service as well as the schedule for the CU III.

The ID is explained in paragraph 18. The ID determines a unique frequency hopping pattern of a master.

However, later he argues: (emphasis added):

Further, the claim calls for "wherein polling the first master transmitting device includes determining whether the first master transmitting device is receiving a signal from a slave transmitting device." Here, all that happens is one master transmits its ID to all neighbor masters. There is no determination of whether the first master (i.e. the master being polled by a second master) is receiving a signal from a slave transmitting device. In this case, the master that is broadcasting its ID is the one that is, in fact, deciding to cut off communications with the CU.

Examiner respectfully disagrees. In the last office action, Examiner explicitly stated (emphasis added):

poling the first master transmitting device includes determining whether the first master transmitting device is receiving a signal from a slave transmitting device ("schedule for CU 111" in par. 23: lines 24-27).

It seems that Applicant failed to point to what Examiner is directing him to, i.e., "schedule of CU 111", which determines schedule of device transmitting or receiving or signal, as described in par. 21: lines 4-10; par. 23: lines 24-27; and par. 25: lines 7:12 respectively. Examiner notes that **Applicant is responsible for understanding the reference in its entirety.**

4. In respond to Applicant argument that (emphasis added):

There is no determining whether one of the neighboring NAPs is communicating with a slave transmitting device because, most likely, it is not. That is the whole problem. The master that is communication with the CU does not want to continue communicating and is apparently hoping that a neighboring NAP can take over the communication with the CU.

Claim 23 calls for polling the first master from the second master to determine if the first master is receiving a signal from the slave. This, too, does not happen in the cited reference. Therefore, reconsideration is requested.

Examiner notes that Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

5. Applicant also argues that (emphasis added):

The reason why the above cited material does not teach what is claimed is that a second master does not poll a first master to determine the hopping sequence of the first master. Instead, in the cited reference, one master broadcasts its hopping sequence (or in the language of the cited reference, "the ID for the NAP requesting service"). Thus, the broadcast hopping sequence is the wrong one (so far as the claim is concerned) in the cited reference. A second master does not ask a first master for the first master's hopping sequence. The master broadcasts its hopping sequence. Therefore, the reference does not teach polling a first master transmitting device with a second master transmitting device to determine a hopping sequence of the first master transmitting device.

Examiner respectfully disagrees. Examiner notes that Applicant fails to recognize that the "broadcast" is nothing but "pulling" a group of units, as interpreted properly by Examiner; considering furthermore, that Applicant has not disclosed that the way the hopping sequence is identified, provides an advantage, is used for a particular purpose, or solves a stated problem.

Therefore claims 1, 14, and 23 stands rejected. Examiner notes that Applicant does not argue rejection of dependent claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3, 5-12, 14-17, and 23-25 are rejected under 35 U.S.C. 102(e) as anticipated by Denher et al. (US 2003/0035464).

Regarding claims 1 and 14, Denher et al. (hereinafter “Denher”) discloses polling a first master transmitting device with a second master transmitting device (Fig. 1: 103 and 105; par. 16: lines 1:4; par. 20: lines 1-6) to determine a hopping sequence of the first master transmitting device (“ID for the NAP” in par. 23: lines 24-27; par. 18: lines 11-15; par. 22: lines 7-9); polling the first master transmitting device includes determining whether the first master transmitting device is receiving a signal from a slave transmitting device (“schedule for CU 111” in par. 23: lines 24-27).

Regarding claim 2, Denher further discloses polling the first master transmitting device includes polling the first master transmitting device across a local area network (“wireless LAN” in par. 22: lines17)

Regarding claims 3 and 16, Denher further discloses polling the first master transmitting device includes polling the first master transmitting device with a wireless communication (Fig. 1; par. 17; “wireless LAN” in par. 22: lines17).

Regarding claim 5, Denher further discloses informing the first master transmitting device of communication characteristics of the hopping sequence of the second master transmitting device (“ID for the NAP” in par. 23: lines 24-27; par. 18: lines 11-15; par. 22: lines 7-9).

Regarding claim 7, Denher further discloses polling the first master transmitting device includes polling a device selected from the group consisting of an access point, a base state, a network node, and a terminal (par. 17).

Regarding claims 6 and 9, Denher discloses transferring responsibility to provide communication between a network and a slave transmitting device from the second master transmitting device to the first master transmitting device (“offering to provide assistance” in par. 24: lines 10-29)

Regarding claims 8 and 25, Denher further discloses determining if a signal strength between a slave transmitting device and the second master transmitting device is approaching a predetermined threshold (“predetermined level” in par. 23: lines 5:20).

Regarding claims 10 and 17, Denher discloses polling the first master transmitting device includes updating a table of near neighbors (“periodically updated locally” in par. 22: lines 7-19)

Regarding claims 11 and 12, Denher further discloses changing the hopping sequence of the first master transmitting device so that master transmitting devices can communicate with a slave transmitting device (“first frequency pattern” in par 24: lines 10-25)

Regarding claims 15 and 24, Denher further discloses polling the first master includes transmitting a packet over the network (par. 25: lines 1-5).

Regarding claim 23, Denher discloses: a storage medium having stored instructions that are executable (“the controller controlling the operation” in par 34: lines 5-9; “controllers 143, 163” and “153” in par. 17); notifying a first master of the hopping sequence of a slave with a second master (“ID for the NAP” in par. 23: lines 24-27; par. 18: lines 11-15; par. 22: lines 7-9; “schedule for CU 111” in par. 23: lines 24-27); polling the first master to determine if the first master is receiving a signal from the slave device (“schedule for CU 111” in par. 23: lines 24-27).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

8. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nader Bolourchi whose telephone number is (571) 272-8064. The examiner can normally be reached on M-F 8:30 to 4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David. C. Payne can be reached on (571) 272-3024. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Nader Bolourchi/

Examiner, Art Unit 2611

3/7/2008

/David C. Payne/

Supervisory Patent Examiner, Art Unit 2611